

1 **REMARKS**

2 Amendments to the claims:

3 In this filing Claim 23 has been cancelled. Claims 3, 4, and 25-33 remain
4 pending but stand rejected. I view of the following remarks, the Applicant requests
5 the Examiner's thoughtful reconsideration.

6 Claim Rejections Under 35 U.S.C. 102:

7 Claim 23 stands rejected as being anticipated by USPN 6,091,507 issued to
8 Vatland. Claim 23 has been cancelled rendering the rejection moot.

9 Claim Rejections Under 35 U.S.C. 103:

10 Claims 3, 4, and 25-33 stand rejected as being unpatentable over Vatland in
11 view of USPN 7,042,587 issued to Fiske.

12 Fiske is disqualified as prior art under 35 USC §103(c). Section 103(c)(1)
13 states:

14 Subject matter developed by another person, which qualifies as prior
15 art only under one or more of subsections (e), (f), and (g) of section
16 102 of this title, shall not preclude patentability under this section where
17 the subject matter and the claimed invention were, at the time the
18 claimed invention was made, owned by the same person or subject to
19 an obligation of assignment to the same person.

20 The present application is a continuation us application serial number
21 10/137,394, now USPN 6,623,190) filed May 3, 2002. As such the present
22 application is entitled to the filing date of its parent application. Fiske was published
23 May 29, 2003. Consequently, Fiske can qualify as prior art only under 35 USC
24 §102(e). Pursuant to Section 103(c), therefore, Fiske does not qualify as prior art
25 under Section 103(a).

26 As evidence of common ownership, Hewlett-Packard Development Company
27 (or its predecessor in interest Hewlett-Packard Company) owned Fiske and the
28 present Application at the time of the invention, as is evident from the assignments of
29 Fiske recorded February 1, 2002 (inventors to Hewlett-Packard Co.) and September
30 30, 2003 (Hewlett-Packard Co. to Hewlett-Packard Development Company) at
31 reel/frame 012593/0296 and 014061/0492, respectively, and the assignment of this

1 Application recorded July 9, 2002 (inventors to Hewlett-Packard Development Co.)
2 and June 18, 2003 at reel/frame 013066/0188 and 013776/0928, respectively.

3 The Examiner admits that Vatland fails to teach one or more limitations of
4 each of Claims 3, 4, and 25-33. As Fiske is disqualified as prior art, the Examiner
5 has failed to establish a prima facie case for obviousness. Consequently, Claims 3,
6 4, and 25-33 are patentable over the cited references.

7 Conclusion

8 The Applicant believes this response/amendment constitutes a full and
9 complete reply to the office action mailed 2/22/2008. The Applicant respectfully
10 requests timely allowance of claims 3, 4, and 25-33.

11 The Examiner is respectfully requested to contact the below-signed attorney if
12 the Examiner believes this will facilitate prosecution toward allowance of the claims.

13 Respectfully submitted,
14 Todd A. LUTZ

15 Date: April 22, 2008

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